IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7347 OF 2005

Balu Baban Kamthe Applicant

versus

State of Maharashtra Respondent

U.P.Warunjikar for applicant.
S.S.Pednekar, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 28th November 2005

PC :

1. Heard Shri Warunjikar for the applicant and Shri Pednekar for the respondent.

2. The applicant has been arrested in connection with CR No.162/2005 registered at Wanodi Police Station, Pune for the offences alleged under sections 307, 234, 452, 506(2), 504 of the IPC..

3. The complainant who is the friend of the wife of the applicant has stated that because the applicant was annoyed by the fact that she was assisting and supporting his estrauged wife, he entered the house of the said stranger/

complainant and assaulted her along with friends/co-accused.

4. It is not disputed that the applicant was armed with a weapon (Sattoor) which has been recovered at his instance. It is also not disputed that the applicant had assaulted the complainant. The assault was in the presence of the wife of the applicant as well as minor son.

5. The contention of Shri Warunjikar is two fold. He firstly submits that as far as the injuries inflicted on the complainant are concerned, there is a clear discrepancy in the versions of the witnesses. These injuries are not those which are reflected in the medical evidence. The second contention is that the recovery at the instance of the applicant of the weapon (Sattoor) is from an open space and such recoveries are, therefore, vulnerable.

6. Last contention is that co-accused has been enlarged on bail by this Court even when criminal cases are pending against him.

7. With the assistance of Shri Warunjikar I have perused the relevant materials. At this stage,

it will not be permissible to comment upon the evidentiary value of the documents including the Panchanama. This is a case where the applicant is charged with a serious offence. The complainant is helping his wife. The applicant got annoyed by this fact and as rightly pointed out by the learned Sessions Judge, threatened the complainant earlier and later forcibly entered her house and assaulted her. She has used her hands to save the assault on her head. There are injuries as are set out in the medical certificate. The evidentiary value of these documents cannot be gone into at this stage. Considering the fact that the witnesses include the applicant's wife and his minor son, this is not a case where the applicant deserves to be enlarged on bail.

8. The application is rejected. All observations made by the Court below as well as this Court are for the purposes of disposal of the bail application and can never be considered as conclusive or binding as far as merits of the controversy. The trial has commenced, as informed by the learned APP.. The Court below shall endeavour to complete the same expeditiously.

(S.C.DHARMADHIKARI, J.)